

Attachment B

Appeal Application – April 25, 2008



**CITY OF BELMONT  
APPEAL APPLICATION**

**ZONING ORDINANCE #360 - SECTION 15**

**ALPHEUS W. JESSUP, ON BEHALF  
I, OF JEAN ADAM**, appeal the action of the PLANNING COMMISSION

at the Regular Meeting held on APRIL 15, 2008

on the application for TENTATIVE SUBDIVISION MAP ("TENTATIVE PARCEL MAP")

granted not granted to JEAN ADAM

concerning the property located at the following address 1109 ALOMAR WAY, BELMONT

Being Lot 11 Block B Subdivision CARLMONT NO. 2

Assessor's Parcel No. 045-083-040

This APPEAL, in accordance with Ordinance #360, gives the following reason(s) to make claim that there was an error or abuse of discretion by the Commission, or wherein its decision was not supported by the evidence in the record:

PLEASE SEE THE ATTACHED SHEETS FOR  
THE TEXT OF THE APPEAL.

PLEASE NOTE THAT WE RESERVE THE RIGHT  
TO PROVIDE ADDITIONAL MATERIALS IN SUPPORT  
OF THE APPEAL AS THEY BECOME AVAILABLE

I, the undersigned appellant, do hereby certify that this Appeal, in accordance with Ordinance #360, has been filed within the ten (10) day filing period and the fee of \$950.00 has been paid to the City of Belmont.

**FOR OFFICE USE ONLY:**

Applic. No. \_\_\_\_\_

Date Received \_\_\_\_\_

Receipt No. \_\_\_\_\_

Probable Hearing Date \_\_\_\_\_

Appellant Signature \_\_\_\_\_

Address \_\_\_\_\_

City, Zip Code \_\_\_\_\_

Email address \_\_\_\_\_

Office Phone \_\_\_\_\_

Home Phone \_\_\_\_\_

- The applicant must submit 8 paper sets of complete plans (stapled and folded to fit in an 8 1/2 x 14" folder) with the completed appeal form. Appeals cannot be processed without the required sets of plans.
- The appellant must provide 8 paper sets of any materials they want considered with their appeal application.
- The City of Belmont cannot accept electronic submittals at this time.

APPEAL APPLICATION TEXT  
(1109 Alomar/Adam Residence)

Denial of the application by the Planning Commission denies the homeowners development rights afforded other Belmont residents under the ordinances in effect at the time of the original submission. The Planning Staff acknowledged that the proposed subdivision would require less earth movement and is less steep than other hillside projects that have been approved. -

The Staff Report asserts that the project does not meet Goal 3, Policies 2.a. – 2.c., 4.d. and 4.i., and 6 of the General Community Goals and Policies of the General Plan and Goal 6 from the Residential Areas section of the General Plan.

It is the contention of the homeowners that the recommendation of the staff and subsequent decision of the Commission to deny the application is incorrect – that the policies noted above do not apply or are arbitrary - and therefore constitutes the abuse of discretion required for a finding that reverses the denial.

By any reasonable measure Goal 3 does not apply to the property in dispute if for no other reason that the definition of “natural” environment does not apply to the site. It is a residential neighborhood in an urban setting with limited value as “significant open space.” Proper development as proposed by the homeowners would improve the appearance of the property, provide for more healthy landscaping, increase the viability of native plants, stabilize the hillside, etc.

2.a. does not apply as the site is proximate to Ralston Avenue, a major thoroughfare and the steepness of the property is not more than exists elsewhere in its neighborhood.

2.b. does not apply as the context of the neighborhood is residential homes bounded by streets and not ridgetop vistas. The development of the site would address all the other concerns noted.

2.c. is unaffected by the proposed subdivision: the addition of a small well-designed and engineered single-family home in a neighborhood of single family homes adds to rather than detracts from the quality of a neighborhood and thus renders moot the use of 2.c as an argument against the project.

4.d. is being kept to a minimum as required by the City and good design practices so this should not apply.

4.i. cannot be avoided and has been permitted by the City.

6 does not apply as the natural features alluded to do not exist in the neighborhood. The Alomar/Maywood site is not pristine. The existing vegetation is marginal – the trees affected by the proposed work are in fair or poor condition as described by the City Arborist and there is no significant understory of native shrubs and plants. The development will, if anything, improve the appearance of the neighborhood.

Goal 6 as it relates to residential development was addressed in detail by the geotechnical report prepared by Romig Engineers. Belmont is within an earthquake-prone region. There is no reason to conclude that the proposed site is at more risk from seismic hazard than others. The assessment and mitigation measures proposed addressing hydrologic risk were described in the SUPPLEMENTAL APPLICATION which is included with this package.

The staff report improperly characterizes the site as having “dense” vegetation.

Cotton Shires review of the geotechnical report prepared by Romig uses the word “precipitous” to characterize slopes of 60 to 80 percent. The slope of the proposed lot is less than that though members of the community and Planning Commission throughout the formal hearing described the new lot as having a “precipitous” slope. The site does not require heroic measures by the engineers and architects to properly and conservatively address the challenges provided by the site.

The siting of the structure being proposed for the new lot complies with the requirements of the zoning ordinance. One of the Planning Commissioners noted that one of his objections to the project was because the proposed structure did not meet the requirements for setback which it clearly does and was so noted in the Staff Report.

SUPPLEMENTAL APPLICATION  
(TENTATIVE PARCEL MAP)  
(1109 Alomar/Adam Residence)

SPECIAL CONDITIONS: (supplemental text)

Flood Zone:

The site is in Flood Zone C and is approximately 600 feet from the beginning of the Zone A flood boundary. This map information was gathered from existing Flood Insurance Rate Maps (FIRM) from the National Flood Insurance Program (NFIP) within the Federal Emergency Planning Agency (FEMA) and effective as of March 9, 1982. Mitigation measures in design and during construction will not increase the potential for erosion and land movement due to heavy rainfall. Prior to submission of documents for a building permit the design team will put together a comprehensive erosion control plan to comply with the City's requirements.

Geologic Hazards:

Part 3 of the General Plan discusses goals and policies for Seismic safety. A thorough geo-technical investigation and report have been prepared by Romig Engineers that addresses the issues associated with construction of the small residence on the Maywood fronting property. The recommendations of the geo-technical engineers meet or exceed the goals and policies described in the General Plan. It is the opinion of the geo-technical engineers that the proposed residence may be safely constructed on the property.

PHASING:

The site would be developed all at one time with sequencing of the construction activities done in a manner standard to the construction industry. It is anticipated that the site would be developed starting with the site work (grading, subsurface drainage retaining walls, and the new home foundation) proceeding into construction of the home and finishing with site landscaping. The construction activities should be completed approximately in an 18 month period.

The construction plan as envisioned by the owners – necessitated partly for the family's particular needs but also in consideration of the neighborhood – will be to schedule and phase elements of the work to limit any significant impact on the neighboring properties. Noise control during construction activities shall be addressed as a serious concern. Construction vehicles and traffic through the neighborhood are issues that shall be addressed, etc.

## RELATIONSHIP TO SURROUNDING USES:

The surrounding uses to the north, south, east, and west are all single family residential uses and for the few blocks in all directions are zoned R-1-B. The project proposed would be to construct a new single family residence on the newly created lot designated on the proposed tentative map. The proposed project would not alter the established character or functioning of the surrounding use or zoning. The proposed project will be designed in a manner consistent with the R1B zoning.

The proposed residence meets the design guidelines of the zoning ordinance and the goals and community standards described in the General Plan for this particular neighborhood.

## FINDINGS:

A. "That the proposed map is consistent with applicable general and specific plans:"

The proposed tentative map proposes to subdivide an existing conforming R1B lot into two separate parcels. The proposed subdivided lots are consistent with minimum City requirements for lot area, frontage, and width as designated in the R1B zoning district. The proposed subdivision does not require modification of any City rules or regulations to effect the change. The proposed subdivision would not alter the zoning or use of the existing area. Both of the proposed parcels would be zoned R1B and will ultimately contain structures for single-family residential use.

B. "That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans:"

The newly created northernmost lot of the proposed subdivision will contain structures that will be consistent with the regulations of the R1B zoning district and with the applicable general and specific plans. The newly created southernmost lot of the proposed subdivision will have an existing non-conforming use relative to side yard setback requirements for the existing home on the site.

(Please note that the proposed use of the property and the design for the existing and the proposed new home are consistent with the General Community Goals and Policies described in Part 1, pages 7 through 9 of the General Plan.

Furthermore, the design of the proposed home is modest for the neighborhood and is in keeping with the design of other homes in the Chula Vista area and both parcels equal or exceed the minimum lot requirements.)

- C. "That the site is physically suitable for the type of development:"  
The site is physically suitable for the proposed residential development. The newly created northern most lot is adequately configured to provide suitable building area for outdoor and indoor spaces and parking for the proposed new home. The lot is steep but no more so than other buildable lots within the City and is able to support a design that is consistent with the applicable restrictions of the Zoning Ordinance and the General Plan.  
Engineering analysis by the Civil and Geo-technical Engineers confirms the suitability of the site for development in accordance with the City's guidelines and applicable Codes.  
Part 2 of The General Plan discusses Land Use and describes Goals and Policies: Both parcels meet or exceed the minimum requirements for lot size.
- D. "That the site is physically suitable for the proposed density of development:"  
The site is physically suitable for the proposed density of development. The newly created northern most lot provides adequate area on the site to achieve side yard separation, front and rear yard separation and a home size consistent with or smaller than other homes in the neighborhood. This lot is able to support a design that will be consistent with the applicable restrictions of the Zoning Ordinance and the General and Specific Plans.  
Homes have been built throughout the hillside areas of Belmont. The development of this property is consistent with other approved development within the City. The proposed use is compatible with the type of use in the Chula Vista neighborhood. The development of this parcel will require upkeep of the grounds. (For example: the Arborist report indicates that most of the regulated and protected trees on the currently undeveloped parcel are in "fair" or "poor" condition. The proposed new house construction necessitates that several trees will need to be removed – each of those trees fits the categories noted above – and new landscaping and trees installed. The development of the property will require maintenance and upkeep in accordance with established standards and will constitute an improvement over what is currently there.)
- E. "That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat:"  
The design of the subdivision and or proposed improvements will not cause substantial environmental damage or substantially injure fish, or wild life, or their habitat in the area. The site has been bound on all sides by residential neighborhoods for over thirty years. The habitat areas of the proposed subdivision will be consistent with those that exist in the neighborhood. The landscape design for the property will retain the hillside character of the parcel. Trees and shrubbery that are removed shall be replaced in number and size and in a manner to be identified through consultation with the Planning Staff and Commission. Grading shall be limited so as to retain as much of the existing site features as is practical. Site drainage shall be designed to inhibit run-off.

The nearest waterway is over 700 feet from the proposed subdivision. There will not be any impact to the waterway from the proposed subdivision.

- F. "That the design of the subdivision or the type of improvements is not likely to cause serious public health problems:"

The design of the subdivision and/or the type of improvements proposed are not likely to cause serious public health problems; on the contrary, the existing site conditions pose a potentially adverse public health issue which the proposed subdivision would mitigate. The existing slopes of the site are unprotected and fairly steep. There is evidence of erosion. Currently, water run-off from the proposed subdivision area is by sheet flow to Maywood Drive. The proposed improvements would be designed consistent with Codes and regulations regarding slope stabilization and on-site drainage. Both improvements, in conjunction with the landscape design, will provide a higher level of slope protection and an improved benefit for the public health than that which currently exists.

- G. "That the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large, for access through or use of, property within the proposed subdivision. (in this connection, the City Council may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to one previously acquired by the public.):"

The design of the Subdivision and or the type of improvement proposed will not conflict with items noted above. All easements have been located on the tentative map and have been preserved intact.